

REMARKS

This Amendment is being submitted in response to the Final Office Action mailed July 12, 2007. Claims 1-16 remain pending in this application with claims 1 and 2 being the only independent claims. Reconsideration in view of the amendments and remarks presented herein is respectfully requested.

Claims 1-6, 8-11 and 13-16 are rejected under 35 U.S.C. §103(a) as obvious over JP 09-313531 (Nakazawa et al.) in view of U.S. Patent No. 5,899,894 (Palumbo et al.). Claims 7 and 12 are rejected under 35 U.S.C. §103(a) as obvious over Nakazawa et al. in view of Palumbo et al. and U.S. Patent Application Publication No. 2003/0040732 (Ishikawa).

Applicants respectfully traverse the prior art rejections for the reasons presented below.

Independent Claims 1 & 2

Claims 1 and 2 are distinguishable in that they state "the third leg part elastic bodies extend in a longitudinal direction beyond the points of intersection with the first leg part elastic bodies and the second leg part elastic bodies at the respective sides of the main absorbent article body part." The Examiner maintains that "the third leg part elastic bodies 20, 21 extend in a longitudinal direction beyond the points of intersection with the first leg part elastic bodies 18 and the second leg part elastic bodies 19 at the respective sides of the main absorbent article body part (see figure in Abstract). Applicants respectfully disagree. The figure depicted next to the Abstract is the same as that shown in Figure 1.

In the description of the invention with respect to Figure 1, Nakazawa et al. expressly discloses (Figures 2 & 4; [¶ 0027]) that the ends of each of the third and fourth elastic members 20, 21, respectively, terminate at the intersections with the first and second elastic members 18, 19, respectively. Thus, neither the third nor the fourth elastic members 20, 21, respectively, disclosed in Nakazawa et al. extend in a longitudinal direction beyond the points of intersection with the first and second elastic members 18, 19 at the respective sides of the main absorbent article body part, instead the ends of the third and fourth elastic members 20, 21, as found in claims 1 and 2.

Dependent Claims 3 & 8

The Examiner never addressed this argument in the previous response. Note that despite changing the basis for rejection of independent claims 1 and 2, review of all the arguments with respect to the dependent claims is also required to determine whether any of the dependent claims contain allowable subject matter which would be in condition for allowance to include the limitations of the base claim and all intervening claims. Accordingly, the argument is presented again below.

Claims 3 and 8 provide that “the third leg part elastic bodies, which are positioned at the flap parts of said main absorbent body part, have at least a portion thereof disposed along the central lateral axis X-X outward beyond the leg parts at the respective sides of the outer layer sheet” (emphasis added). To the contrary, in Figures 2 and 4 of Nakazawa et al. the third and fourth elastic members 20, 21, respectively, are disposed inward along the central lateral axis X-X relative the leg parts 13L, 13R at the respective sides of the outer layer sheet. No portion of third and fourth elastic members 20, 21, respectively, are disposed along the central lateral axis X-X outward beyond the leg parts 13L, 13R at the respective sides of the outer layer sheet, as called for in claims 3 and 8.

Dependent Claims 4 & 9

Claims 4 and 9 depend from independent claims 1 and 2, respectively. Therefore, Applicants submit that claims 4 and 9 are patentable over the prior art of record for at least the reasons provided above with respect to claims 1 and 2, respectively.

Dependent Claims 5 & 10

Claims 5 and 10 depend from independent claims 1 and 2, respectively. Therefore, Applicants submit that claims 5 and 10 are patentable over the prior art of record for at least the reasons provided above with respect to claims 1 and 2, respectively.

Dependent Claims 6 & 11

The Examiner never addressed this argument in the previous response. Note that despite changing the basis for rejection of independent claims 1 and 2, review of all the arguments with respect to the dependent claims is also required to determine whether any of the dependent claims contain allowable subject matter which would be in condition for allowance to include the limitations of the base claim and all intervening claims. Accordingly, the argument is presented again below.

Dependent claims 6 and 11 provide "each of the first leg part elastic bodies and second leg part elastic bodies is arranged to be lower in tensile strength at the intermediate part, positioned in the direction of crossing said crotch part, than at the one end side and the other end side that are positioned along the leg parts at the respective sides".

In rejecting claims 6 and 11, the Examiner states "The disposable absorbent article according to Claim 1, wherein each of the first leg part elastic bodies and second leg part elastic bodies 19 is arranged to be lower in tensile strength at the intermediate part, positioned in the direction of crossing said crotch part, than at the one end side and the other end side that are positioned along the leg parts at the respective sides. The lower tensile strength is due to the presence of an increased amount of elastic at said intermediate part relative to the end sides positioned along said leg parts 13L, R." (See remarks with respect to rejection of claims 6 and 11 on pages 6 and 7 of the July 12, 2007 Final Office Action)(emphasis added)

Applicants respectfully traverse the Examiner rejection of claims 6 and 11 as being anticipated by Nakazawa et al. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). First, the Examiner has failed to cite to any passage in Nakazawa et al. that either discloses or suggests the presence of an increased amount of elastic at the intermediate part relative to the end sides positioned along the leg parts 13L, R. Furthermore, even if the prior art reference expressly taught such a limitation, there is no support for any relationship between the amount of elastic and its tensile strength. Tensile strength represents the force a material can bear without being torn apart. Nakazawa et al. is silent concerning the tensile strength of first and second elastic members. Accordingly, Applicant asserts that Nakazawa et al. does not read

on or anticipate claims 6 and 11.

Dependent Claims 7 & 12

Claims 7 and 12 depend from independent claims 1 and 2, respectively. Therefore, Applicants submit that claims 7 and 12 are patentable over the prior art of record for at least the reasons provided above with respect to claims 1 and 2, respectively.

Dependent Claims 15 and 16

Dependent claims 15 and 16 are further distinguishable in that they provide “the third leg part elastic bodies extend in a longitudinal direction substantially the length of the main absorbent article body part”. Nakazawa et al. discloses (Figures 2 & 4; [¶ 0027]) that the ends of each of the third and fourth elastic members 20, 21, respectively, terminate at the intersections with the first and second elastic members 18, 19, respectively. As clearly seen from Figures 2 & 4, the third and fourth elastic members 20, 21, respectively, do not even closely extend the full length in a longitudinal direction the absorbent 24.

The Examiner asserts to the contrary, that “The third and fourth leg part elastic bodies 20, 21 are considered herein to extend in a longitudinal direction substantially the length of the main absorbent article body part (‘531, Fig. 2).” (See July 12, 2007 Final Office Action: Page 8, lines 8-10) Applicants respectfully disagree. Referring to Figure 2 of Nakazawa, clearly the third and fourth elastic members 20, 21 fall short of the upper and lower ends (in a longitudinal direction) of the absorbent 24 and thus do not extend over its entire length. If one was to measure the length of each of the third and fourth leg part elastic bodies 20, 21 from their respective points of intersection with the first and second elastic members 18, 19, respectively, then this measured length when compared with the overall length from top to bottom (in a longitudinal direction) of the absorbent 24, would extend only approximately half the overall length. Clearly, half the length is not “substantially the length of the main absorbent article body part.” Accordingly, Nakazawa et al. fails to disclose or suggest that “the third leg part elastic bodies extend in a longitudinal direction substantially the length of the main absorbent article body part”.

For the foregoing reasons applicants submit that independent claims 1-16 are patentable over the art of record. Applicants submit that the application is now in condition for allowance and passage to issuance is requested.

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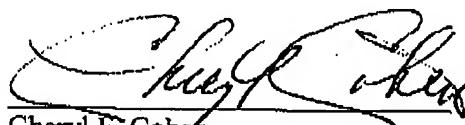
CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 503462.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 503462.

Respectfully submitted,



Cheryl F. Cohen
Reg. No. 40,361
Attorney for Applicants
Cheryl F. Cohen, LLC
2409 Church Road
Cherry Hill, NJ 08002
Telephone: (856) 414-1055
Facsimile: (856) 414-1058